
HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF HEALTH TO PROVIDE WRITTEN
NOTIFICATION WITHIN A REASONABLE TIME TO APPLICANTS FOR
WATER QUALITY CERTIFICATION IF THE APPLICATION IS
INCOMPLETE.

1 WHEREAS, the Department of Health is responsible for
2 certifying that any discharge resulting from a proposed activity
3 will not violate applicable water quality standards, in
4 accordance with section 401(a)(1) of the federal Clean Water
5 Act; and

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7 WHEREAS, certification under section 401 of the federal
8 Clean Water Act is often the last of a series of required
9 applications, typically triggered as a conditional requirement
10 for a section 404 permit from the United States Army Corps of
11 Engineers for a discharge in waters of the United States; and

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13 WHEREAS, the timely approval or disapproval of applications
14 is a reasonable expectation and is necessary to ensure the
15 timely implementation of projects; and

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17 WHEREAS, state or county agencies are required under
18 section 91-13.5, Hawaii Revised Statutes, to adopt rules
19 specifying a maximum time period to grant or deny a business- or
20 development-related permit, license, or approval; and

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22 WHEREAS, the Department of Health has adopted rules
23 providing that if the Director of Health fails or refuses to act
24 on a request for certification within one year after receipt of
25 a complete water quality certification application, then
26 specified certification requirements must be waived with respect
27 to the concurrently required federal application; and
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1 WHEREAS, approval of both government and private
2 applications for water quality certification can take up to
3 three years from the time an application is initially submitted;
4 and

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6 WHEREAS, the time required to obtain a water quality
7 certification is unreasonably long, is not consistent with the
8 intent set forth in section 91-13.5, Hawaii Revised Statutes,
9 and results in delays often resulting in costly and extraneous
10 efforts to complete projects by government and private sector
11 applicants; and

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13 WHEREAS, the backlog of water quality certification
14 applications at the Department of Health has caused a number of
15 small projects to stall, including a project at Honokohau
16 Harbor; and

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18 WHEREAS, improved response times from the Department of
19 Health with respect to water quality certification applications
20 will allow state agencies to more accurately budget for capital
21 improvement and natural resource management projects and to
22 implement projects on a more timely basis, thereby improving
23 service to the public and saving money for the State; now,
24 therefore,

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26 BE IT RESOLVED by the House of Representatives of the
27 Twenty-eighth Legislature of the State of Hawaii, Regular
28 Session of 2015, the Senate concurring, that the Department of
29 Health is requested to provide written notification within a
30 reasonable time to applicants for water quality certification if
31 the application is incomplete, including specific requirements
32 the applicant needs to satisfy in order to complete the
33 application; and

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35 BE IT FURTHER RESOLVED that the Department of Health is
36 requested to deem an application complete if an applicant has
37 not been notified in writing that the application is incomplete
38 within a reasonable time after submission of the application;
39 and

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41 BE IT FURTHER RESOLVED that certified copies of this
42 Concurrent Resolution be transmitted to the Director of Health



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1 and the Commander and Division Engineer of the United States
2 Corps of Engineers, Pacific Ocean Division.

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5 OFFERED BY:

Nicole E. L...
[Signature]

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